

ASSEMBLY BILL

No. 553

Introduced by Assembly Member La Suer

February 16, 2005

An act to amend Sections 1810 and 1815 of the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 553, as introduced, La Suer. Public works: overtime compensation: workweek schedules.

Existing law generally requires the payment of the prevailing rate of per diem wages and the prevailing rate for holiday and overtime work to employees employed on public works projects that cost more than \$1,000. Existing law prescribes overtime compensation for work in excess of 8 hours per day or 40 hours per week performed by employees of contractors under specified public works contracts, as provided.

This bill would modify the existing requirement to pay these employees overtime compensation for work in excess of 8 hours per day, or 40 hours per week, by exempting from that requirement the payment of overtime compensation to an employee working an alternative workweek schedule upon the proposal of an employer, as specified, to an employee working an alternative workweek schedule adopted pursuant to a collective bargaining agreement, as specified, or to an employee working in, among other cases, a case of emergency or protection of life or property from loss or destruction, as provided. This bill would also specify that time spent by an employee commuting, as specified, in a vehicle owned, leased or subsidized by the employer, and used for ridesharing, as defined, is not considered to be part of the employee's day's work.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1810 of the Labor Code is amended to
2 read:

3 1810. (a) Eight hours labor constitutes a legal day's work in
4 all cases where the same is performed under the authority of any
5 law of this State, or under the direction, or control, or by the
6 authority of any officer of this State acting in his official
7 capacity, or under the direction, or control or by the authority of
8 any municipal corporation, or of any officer thereof. A
9 stipulation to that effect shall be made a part of all contracts to
10 which the State or any municipal corporation therein is a party.

11 (b) *Subdivision (a) does not apply to the payment of overtime*
12 *compensation to an employee working pursuant to any of the*
13 *following schedule:*

14 (1) *An alternative workweek schedule adopted by the*
15 *employee as provided in Section 511.*

16 (2) *An alternative workweek schedule adopted pursuant to a*
17 *collective bargaining agreement as provided in Section 514.*

18 (3) *An alternative workweek schedule to which this chapter*
19 *does not apply because of the provisions of Section 554.*

20 (c) *Time spent commuting to and from the first place at which*
21 *an employee's presence is required by the employer shall not be*
22 *considered to be a part of a day's work when the employee*
23 *commutes in a vehicle that is owned, leased, or subsidized by the*
24 *employer and is used for the purpose of ridesharing, as defined*
25 *in Section 533 of the Vehicle Code.*

26 (d) *This section does not affect, change, or limit an employer's*
27 *liability under the workers' compensation laws.*

28 SEC. 2. Section 1815 of the Labor Code is amended to read:

29 1815. (a) Notwithstanding the provisions of Sections 1810 to
30 1814, inclusive, of this code, and notwithstanding any stipulation
31 inserted in any contract pursuant to the requirements of said
32 sections, work performed by employees of contractors in excess
33 of 8 hours per day, and 40 hours during any one week, shall be
34 permitted upon public work upon compensation for all hours

1 worked in excess of 8 hours per day at not less than 1 ½ times the
2 basic rate of pay.

3 *(b) Subdivision (a) does not apply to the payment of overtime*
4 *compensation to an employee working pursuant to any of the*
5 *following schedule:*

6 *(1) An alternative workweek schedule adopted by the*
7 *employee as provided in Section 511.*

8 *(2) An alternative workweek schedule adopted pursuant to a*
9 *collective bargaining agreement as provided in Section 514.*

10 *(3) An alternative workweek schedule to which this chapter*
11 *does not apply because of the provisions of Section 554.*

12 *(c) Time spent commuting to and from the first place at which*
13 *an employee's presence is required by the employer shall not be*
14 *considered to be a part of a day's work when the employee*
15 *commutes in a vehicle that is owned, leased, or subsidized by the*
16 *employer and is used for the purpose of ridesharing, as defined*
17 *in Section 533 of the Vehicle Code.*

18 *(d) This section does not affect, change, or limit an employer's*
19 *liability under the workers' compensation laws.*